

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STEVEN ALLEN VOLSTAD,

Petitioner,

vs.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS,

Respondent.

NO. CV-07-263-FVS

ORDER DISMISSING PETITION

BEFORE THE COURT is Petitioner's "Motion for Extension of Time and Order, Ordering the Dept. of Corrections to Give Petitioner His Personal Legal Work." Petitioner, a prisoner currently housed at the Monroe Correctional Complex, is proceeding *pro se*; Respondent has not been served.

By Order filed October 5, 2007, the court directed Mr. Volstad to amend his petition to demonstrate he had authorization from the Ninth Circuit Court of Appeals to file a second or successive petition challenging his 1989 Spokane County conviction. See 28 U.S.C. § 2244(b)(3)(A). Petitioner was subsequently granted an extension of time to comply with that Order.

Petitioner now seeks a further extension of sixty (60) days to comply. He asserts he does not have access to his legal files which

1 he claims he needs to fill out a Ninth Circuit form application for
2 leave to file a second petition under 28 U.S.C. § 2254. By this
3 assertion, Mr. Volstad is acknowledging he did not have permission
4 from the Ninth Circuit Court of Appeals to file a second or successive
5 petition when he initiated this action on August 15, 2007.

6 Consequently, **IT IS ORDERED** this action is **DISMISSED without**
7 **prejudice** to Mr. Volstad filing a new action once he has obtained
8 authorization from the Ninth Circuit Court of Appeals to file a second
9 or successive habeas corpus petition challenging his 1989 Spokane
10 County conviction. **IT IS FURTHER ORDERED** his pending motion (Ct. Rec.
11 16) is **DENIED as moot**.

12 **IT IS SO ORDERED.** The District Court Executive is directed to
13 enter this Order, enter judgment, forward a copy to Petitioner, and
14 close the file.

15 **DATED** this 18th day of April 2008.

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17 s/ Fred Van Sickle
18 FRED VAN SICKLE
19 UNITED STATES DISTRICT JUDGE
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